

April 23, 2003

David Stoecklein
PO Box 856
Ketchum, ID 83340

Re: Your Correspondence of March 25 and April 16, 2003
Your Diversions from Warm Springs Creek

Dear Mr. Stoecklein,

Again, I believe my past correspondence concerning delivery of the Reno water rights was very clear. My responses to your additional questions are as follows:

- 1) "If Reno gives Johnson 80 inches then Reno can only put 16 inches through his mainline?"
Answer: Yes.
- 2) "Is there a percentage of time Johnson can use Reno's water and vice versa?"
Answer: No.
- 3) "What is the time each can use the water? Is it a percentage of how much each person has for water, 17 inches for Johnson and 46 inches for Reno?"
Answer: See answer to question number 2 above. Under rotation agreements, the users in the rotation set the amount of time water is rotated between users. Hence, there is no set percentage that each user can use the water. However, it has been my experience that rotation times are generally proportioned among users based on the amount of water or land each user owns.
- 4) "By your letter I understand that Reno can only use 43 inches from the Unger well and he can never call for more than 46 inches from the head of the hatchery. If this is so then how much water is going to be put in the Hatchery Canal this season?"
Answer: Your understanding is not entirely correct. The amount of water put into the Hatchery Canal for the Reno water right from Warm Springs Creek will depend on the following items:
 - a) Whether the Reno right at the Hatchery Canal is deliverable by priority,
 - b) How much water Reno calls for under his right at the canal and,
 - c) How much water Reno is diverting to his mainline from the Reno-Unger well.

Again, the total combined diversion of Reno's water rights from the well and the Hatchery Canal cannot exceed 1.96 cfs (or 98 miners inches). If Reno opts not to use or exercise his ground water right, then the entire 80 inches under water 34-0470A can be delivered to the head of the Hatchery Canal. If Reno diverts 80 inches to his mainline from the Reno-Unger well then no water can be delivered to the head of Hatchery Canal under water right 34-470A.

I visited a number of diversions on Warm Springs Creek earlier this month, including your two diversions from the creek located just downstream from the Idaho Fish and Game Hatchery and the Hatchery Canal. The headgates at these diversions lack adequate locking controls. In addition, the upper diversion has no measuring device. We also found no measuring devices and lack of lockable controlling headgates on the ditches located at your points of diversion located in the SWNWNE, Section 35, T8N, R22E. IDWR requires that you install measuring devices and adequate lockable headgates on all of your diversions from Warm Springs Creek prior to diversion of any water for this year. Some additional concerns regarding your other water rights is as follows:

- 1) Ground Water Permit 35-7595: Please advise me and the watermaster of Water District 34 if you intend to use the ground water well authorized under this permit this year. If you begin using the permit this year, then you must cease or reduce diversion of water under other surface water rights in accordance with your mitigation plan for right 34-7595. Please note also that a condition of approval of permit 34-7595 requires that you install a measuring device and totalizing meter on the well. Please advise both the watermaster and me if a device has been installed and/or when the device is to be installed.
- 2) Amended Transfer No. 69578: This transfer application seeks to correct the legal location of a recreational storage pond that is located in the NWNE of Section 35, T8N, R22E. I believe it is your intent to divert water to this pond using the ditch and diversion structure in the same location. Your amended transfer lists the diversion point in the NWNE of Section 35 as the diversion location for rights 34-703C and 34-704C but does not list this location as the point of re-diversion for the recreational storage use under rights 34-699C, 34-700C, 34-701C, and 34-702C. Unless my understanding of the transfer is wrong, you may wish to review this transfer application and consider further amendments.
- 3) Permit No.s 34-7581 & 34-7597: Follow all conditions of approval under these permits including installation of measuring devices to and from the pond, installation of a headgate at the diversion, determination of pond storage volume that is to be reported to both the Department and the Big Lost River Irrigation District, and follow all other conditions under the permits.

Sincerely,

Tim Luke
Water Distribution Section

CC: Bob Duke, Watermaster
Eastern Region
Dr. Lynn Reno
Scott Johnson